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The Petitioning System: A Major Challenge to “Social Harmony”?

Analysis by Candice Tran Dai based on:

- Wu Yang, “Debate at the highest level of the CCP on the question of maintaining or abandoning the petition system,” *Chengming*, 2 May 2009
- Yu Jianrong, “University specialisation in ‘petitions’: What needs to be studied,” *Nanfang Zhoumo*, 10 June 2009

At the start of the 2009 academic year, Shenyang University in the province of Liaoning launched a new law course specialising in the petitioning system. According to the director of communications at Shenyang University, Yang Kailai, the 35 students who are to receive an education in this subject will be able to offset the understaffing of the Shenyang Bureau of Letters and Calls.⁽¹⁾ The fact is that across the country, in the face of the constant increase in the number of petitions filed by the general public in the last few years,⁽²⁾ and especially in the face of the increase in collective petitions, the government officials in charge of dealing with petitions are experiencing genuine difficulties.

According to Yu Jianrong, professor and director of the centre for research into social issues at the Institute of Rural Development of the Chinese Academy of Social Sciences, (CASS),⁽³⁾ the pressure being exerted on the petitioning system lies at the heart of the current failures that are paralysing the whole process. For Yu Jianrong, this pressure works in two directions: there is the pressure of the central authorities on the local authorities, who have to be capable of dealing with the petitions at the local level, but there is also pressure on the central authorities, to which the local authorities frequently send on locally-initiated petitions when they are unable to find a satisfactory solution. Yu Jianrong feels that it is not so much the pressure linked to the reception and thus the handling of the petitions that is weakening

the system, but rather the pressure linked to the transfer of the petitions between the different administrative levels of the bureaucracy, and particularly the return *in fine* of the petitions to the central authorities: “[...], it is the pressure linked to the transfer, and not the pressure linked to the handling”; “[...] once the pressure has gone round once, it ends up returning to the central authorities.” Yu Jianrong’s analysis refers to a very concrete reality on the ground. Between the end of 2008 and the beginning of 2009, the Political and Legislative Affairs Committee⁽⁴⁾ of the Central Committee of the CCP requested the dedicated provincial committees to work on the basis of the data from the social science

1. See “Petitions get voice in new course,” Wang Huazhong, *China Daily*, 9 June 2009; article available online at: http://www.chinadaily.com.cn/cndy/2009-06/09/content_8261526.htm.
2. The exact figures are difficult to verify. According to China Labour Bulletin and Rights and Democracy, there would have been 18.6 million cases in total in 2004, and the Bureau of Letters and Calls of the Standing Committee of the National People’s Congress alone is said to have received 40,433 visits and 124,174 letters in 2005, an increase of 50.4% and 83.9%, respectively, over 2004 (*No Way Out, Worker Activism in China’s State Owned Enterprise Reforms*, page 8, “The Petitioning System,” China Labour Bulletin/Rights and Democracy, September 2008; document available online at: http://www.china-labour.org.hk/en/files/File/research_reports/no_way_out.pdf).
3. Yu Jianrong is very well known for his articles on social conflicts, activism, and the rights of peasants and workers. The results of a research project that he initiated on the petitioning system were published in 2004. See <http://www.lawtime.cn/info/lunwen/xzqbzflw/2006102647495.html>, critique of the petition system in China.
4. The Secretary of the Political and Legislative Affairs Committee is Zhou Yongkang. He was previously Minister of Public Security of the PRC from 2002 to 2007 and is currently a member of the Politburo of the 17th Central Committee of the CCP and of its standing committee.

research institutes on the social situation in 2009. The results speak volumes: Besides the fact that the principle of social stability was reiterated, it appears that “the local cadres strongly requested the abolition of the petitioning system.” In fact, not only do 78 percent of the cadres in the rural communes request that the petition system be abolished, but 66 percent of district cadres feel for their part that they are “carrying the can” to their detriment. According to Yu Jianrong, the direct consequence of this state of affairs and of the pressure that is exerted on local officials is that the latter, instead of doing their best to find a solution to the problems exposed by the petitions, instead direct their efforts at measures intended to reinforce their control over the people who file the petitions. But that seems to have little effect on either the desire or the tenacity of the “petitioners.”

The “right to petition” is set out in article 41 of the Chinese constitution,⁽⁵⁾ and having gained strong support among the Chinese population, the petitioning system is regarded today as an alternative procedure to judicial recourse. Instituted in 1951 at the beginning of the communist era, it originally had the aim, as Yu Jianrong indicates and according to the phraseology currently in force, of contributing to the strengthening of the legitimisation of the new political power, to the solving of social contradictions, to the mobilisation of the masses, and also to the exercise of some form of control over officials. Now, over 50 years later, the system is obviously stuck. With the weariness of the officials in charge of petitions, the tortuous paths of bureaucracy, the sometimes serious incidents that occur in the course of petitioning, the petitions that remain dead letters, and the constant increase in the number of petitions being filed as well as the intensification of the phenomenon of collective petitions, the question of the efficacy of the petitioning system cries out for a response.

The petition system was the subject of heated debate in the highest corridors of central power during the month of April 2009. The points of view diverge, and the system’s detractors and promoters are struggling to find common ground, even if everyone acknowledges the deficiencies in the current system and concedes that the 2005 reforms⁽⁶⁾ have been far from satisfactory. Vice Premier Li Keqiang even goes so far as to deplore the fact that “a good number of petitions do not have any ground linked to political affairs but fulfil the pursuit of purely personal interests.” Zhou Yongkang and the Political and Legislative Affairs Committee of which he is the secretary, drawing on the results of the Committee’s studies of the subject, have come to desire the abolition of the petitioning system, but others are following the example

of Bo Xilai, CCP secretary in the municipality of Chongqing and former Minister of Commerce, who seems to favour the system. While in Chongqing on 6 April 2009, Bo Xilai stated: “The handling of petitions has to be taken seriously; each petitioner has to be taken seriously.”

Sun Dongdong, professor and director of the Judicial Expertise Centre at Peking University, who is at the heart of a firestorm that raged in China at the beginning of April 2009,⁽⁷⁾ is certainly not, for his part, a member of the group that promotes the petitioning system. The fact remains that the controversy surrounding Sun Dongdong, now dubbed by the media as the “psychiatry incident,” has not facilitated the task of the central authorities, for whom 2009 is already an especially sensitive year. Certain experts and analysts believe that this incident could constitute a new element, the fifth, likely to spark social tensions and thus threaten “social harmony.” In fact, the report of the Political and Legislative Affairs Committee on the “Different types of forces that threaten stability in 2009” had only mentioned four potentially destabilising elements, most notably the 20th anniversary of the events that took place in Tiananmen Square in June 1989. •

5. Article 41 of China’s constitution states: “Citizens of the People’s Republic of China have the right to criticise and make suggestions to any state organ or functionary. Citizens have the right to make to relevant state organs complaints and charges against, or exposures of, violation of the law or dereliction of duty by any state organ or functionary; but fabrication or distortion of facts with the intention of libel or frame-up is prohibited. In case of complaints, charges or exposures made by citizens, the state organ concerned must deal with them in a responsible manner after ascertaining the facts. No one may suppress such complaints, charges and exposures, or retaliate against the citizens making them. Citizens who have suffered losses through infringement of their civil rights by any state organ or functionary have the right to compensation in accordance with the law.” (The full text of the Chinese constitution is available in English online at: <http://english.peopledaily.com.cn/constitution/constitution.html>.)
6. The reforms came into force on 1 May 2005. The text of the reforms is available in English online at: <http://www.asianlii.org/cn/legis/bj/laws/rolav357/>.
7. During an interview granted to *China Newsweek* on 23 March 2009, in which he was asked about the sending of petitioners to psychiatric hospitals, Sun replied that “more than 99% of ‘petitioners’ suffered from psychiatric problems.” For more details, see in particular: “Scholar sorry for ‘insane’ words on petitioners,” *China Daily*, 7 April 2009.

Can Taiwan's opposition reconstruct itself?

Analysis by Hubert Kilian based on:

- "Internal tensions in the DPP: Pandora's box opened in executive committee," *Lianhe bao – United Daily News*, 9 June 2009, editorial pages.
- "When Chen Chu was in prison fighting for independence, where was Tsai Ing-wen?," *Zhongguo shibao – China Times*, 30 May 2009, editorial pages.
- "Where Tsai Ing-wen failed, Chen Chu finds success," *Zhongguo shibao – China Times*, 23 May 2009, editorial pages.

At the end of May, Chen Chu, the mayor of Kaohsiung from the Democratic Progressive Party (DPP), travelled to Beijing and Shanghai, where she was welcomed by her counterparts Guo Jinlong and Han Zheng. A historical visit, it marked the first time a figure from the DPP of this rank had made such a trip. Some articles in the island's press, in particular the weekly *Xin Xinwen*,⁽¹⁾ preferred to see, rather than any political dimension, the strictly technical necessity for Chen Chu, who is also president of the organising committee of the World Games that took place in Kaohsiung from 16 to 26 July, to provide reassurances to Beijing concerning the security of the Chinese teams that would take part in the sports events, in particular following the aggression shown by pro-independence activists last year in Tainan against ARATS vice-president Zhang Mingqing.⁽²⁾ Others, such as the *Taipei Times*, citing the 22 May 2008 analysis of Chinese academic Wu Nengyuan, director of the Institute of Taiwan Studies at the Fujian Academy of Social Sciences,⁽³⁾ mentioned electoral calculations and the necessity for Chen Chu to demonstrate to the electorate beyond her partisan base her desire to see the city profit from the normalisation of cross-strait economic relations.

In contrast, it was primarily the press close to the Kuomintang (KMT) that strove to analyse the political significance of Chen Chu's trip and the power struggles it has induced at the heart of the DPP. The three articles quoted here are unanimous in underlining the failure of Tsai Ing-wen in the chairmanship of the party, the ideological sclerosis that is now reflected in the reality of these power struggles, and the possible ideological evolution that Chen Chu's visit offers the opposition.

In its editorial, the *Lianhe bao* describes the ideological sclerosis of the DPP, which has been exacerbated by Chen Chu's visit. While they can take no action against each

other, neither Tsai Ing-wen nor the pro-independence and fundamentalist factions in favour of preserving Chen Shui-bian's political heritage are ready to step down, in contrast to the great leaders of the past such as Lin Yi-hsiung, Hsu Hsing-liang, and Shih Ming-teh, who accepted the principle of resignation. Since the DPP's defeat in 2008, Tsai Ing-wen has given up on making headway without these pro-independence factions, even if this was not her intention at the beginning of her mandate. The principle of Chen Chu's visit, admitted with great difficulty by the DPP, probably signs their political death warrant, with Chen Shui-bian no longer having the means to protect the pro-independence factions and vice versa, according to the article's analysis of the situation. Strategically and emotionally speaking, this is the moment for the DPP to part ways with these legacies and to declare an ideological schism. The editorial ends by recalling the effective role that these factions played as the pro-independence spectre in the face of Beijing, and which even now serves the current head of state, Ma Ying-jeou. The question posed today is whether the DPP still wants to adopt this role as the pro-independence party. The article underlines the existence of a dilemma between the fear of losing a valuable card in the face-off with Beijing and the fear, for the DPP, of being taken hostage by the pro-independence factions. While the party represents 40 percent of the electorate, this latter outcome, believes the editorial, would be tragic for Taiwan and its democracy.

The first editorial in *Zhongguo shibao* puts forward an identical analysis of the ideological rigour that continues to prevail in the DPP. Under the reign of Chen Shui-bian, the stranglehold that the pro-independence factions exerted on

1. "The World Games prepares for the anti-terrorist fight, but also the anti-riot fight," *Xin Xinwen (The Journalist)*, no. 1163, 18-24 June 2009.
2. "ARATS man jostled, jeered at in Tainan," *Taipei Times*, 22 October 2008.
3. "Chen Chu proceeding with PRC trip," *Taipei Times*, 21 May 2009.

the party had the consequence of first impoverishing and then, from 2004, shutting off the debate on mainland policy initiated in the 1990s by figures such as Hsu Hsing-liang.⁽⁴⁾ In opposition for more than a year now, the editorial goes on to say, the DPP continues to apply the grid of Chen Shui-bian's ideological reading, condemning the mainland policy of the current head of state, Ma Ying-jeou, all the while that the opening of the island to Chinese investments and Chinese tourism, as well as the promotion of the island's agricultural products on the Chinese market, represents an economic interest for the island's districts that are governed by the DPP. It is also impossible, notes the editorial, for Chen Chu to stand in the way of closer co-operation between the ports of Kaohsiung and Shanghai, all the more so as these overtures fulfil the economic needs of the Taiwanese.

The two editorials that appeared in *Zhongguo shibao* also analyse the impact of Chen Chu's visit to China from the point of view of the psychology and the political careers of the two women. Tsai Ing-wen is here presented as a technocrat trained by the Kuomintang under Lee Teng-hui (to whom she was previously special advisor for national security⁽⁵⁾) and who has climbed up through the ranks of government, from the National Security Council, where Chen Shui-bian had placed her, to the post of Minister for Mainland Affairs and then that of Vice Premier. Before being cast as the head of the DPP, of which she had never been a member, she gained fame at Mainland Affairs for applying the principle of "risk management" that she has continued to apply rigidly in her party today, as demonstrated by the resolution adopted on trips to China following Chen Chu's visit. This portrait stands out against that of Chen Chu, depicted as an important figure in the fight for independence, having paid for her struggle with years in prison, and as the last of the old Formosa faction to occupy a position of political importance today. Contrasted here are Tsai Ing-wen's conservative rigidity and Chen Chu's political courage.

The second editorial continues with a criticism of the decision-making process in the matter of mainland policy such as it has been deployed in particular by Tsai Ing-wen. Before the democratic change-over in 2000, the problem of Lee Teng-hui's KMT was that the senior civil servants and political leaders in charge of Taiwan's mainland policy had no experience of China and spent their time shut away in their offices reading the reports of the National Security Council. With Chen Shui-bian, while cross-Straits exchanges had flourished for a good 10 years already, the decision-makers were forbidden from visiting China by the Taiwanese government; they spent their time reading the same reports pro-

moting the ideology of the Chinese threat. Tsai Ing-wen, who turned herself into an advocate of the need for "risk management" in the face of the opening up, has not in fact changed anything today, assert the two *Zhongguo shibao* editorials. However, starting from January 2006, when the Chen Shui-bian administration began to apply the principle of active management and effective opening-up,⁽⁶⁾ the debates on strategy and mainland policy have almost petered out in favour of a rigid souverainism that is supposed to help win elections.

From that, it is necessary to read into this visit to China a political message addressed to the party, which has ceased to evolve over the past nine years. This would be, asserts the editorial, a means for Chen Chu to try not to take a stance in the confrontation with Chen Shui-bian's political heritage, while at the same time preparing a new political line. As early as 2001, Hsieh Chang-ting, mayor of Kaohsiung at that time, had wanted to visit the city of Xiamen in the Chinese province of Fujian.⁽⁷⁾ Chen Shui-bian, who was then party chairman, had opposed this visit, and Tsai Ing-wen, then Minister of Mainland Affairs, had reinforced the measures banning government figures and elected local representatives from going to mainland China. Today, Tsai Ing-wen has been placed in a delicate position and has no choice but to allow what she has spent several years prohibiting, states the article.

Returning to the political value of the visit itself, the third editorial recalls that this was not Chen Chu's first visit to mainland China. Back in 1999, while she was still an opposition MP, she went to Beijing to see a sick friend.⁽⁸⁾ Today she has gone to mainland China as the most powerful political

4. During the decade starting in the 1990s and up to 2001, the DPP pursued a genuine strategic reflection over its mainland policy. A consensus emerged at a symposium held in 1998. At this time, Hsu Hsin-liang and his Formosa faction, of which Chen Chu was a member, were advocates of stronger economic integration with China. The proposal was retained under the slogan "Go West Boldly." This eventually led to a strategy entitled "Strengthen the Base and Go West" that was adopted by Chen Shui-bian, who introduced it into his electoral platform during the 2000 presidential campaign. It is detailed in the White Book on the Chinese policy of the DPP, which was published on 15 November 1999.
5. Tsai helped draft the well-known qualification of cross-Straits relations as "special state-to-state relations" that, enounced by Lee Teng-hui on 7 July 1999, provoked the suspension of the official dialogue between SEF and ARATS, the firing of missiles, and a hardening of Beijing's Taiwan policy.
6. "Chen to tighten cross-Straits policies," *Taipei Times*, 2 January 2006.
7. One case, the twinning project that the Kaohsiung mayor and chairman of the Democratic Progressive Party, Hsieh Chang-ting, envisaged in July 2000 with the city of Xiamen in the province of Fujian, was the subject of an administrative readjustment. It should be noted, however, that other sources assert that Chen Shui-bian had given his agreement, while Beijing scuppered the project.
8. This also happened with Chen Shui-bian and Lu Hsiu-lian the same year. See Dang Chaosheng and Liu Hong, *Le Parti démocrate-progressiste, étude de sa politique continentale*, 2006 (Taiwanese reissue of the original Chinese work), pp. 59-63.

figure of the opposition. And she has succeeded at something that no member of the Kuomintang has achieved up to now, and without letting the DPP down: describing in Beijing the president of the Republic of China as “the president Ma Ying-jeou of our central government,” noting how “Taiwan was a democratic and pluralistic, multiparty democracy,” and even going so far as to explain that opinions and trends were just as diverse within the DPP. She managed to deliver to Beijing the message that China could no longer ignore the DPP or the political reality in Taiwan, and that it could not ensconce itself in a dialogue solely with the KMT, underlining the importance of such an overture from the perspective of a normalisation of cross-strait relations. The two editorials finally underline the support given to this political message by the former vice-president of the Republic, Lu Hsiu-lien, who called on the DPP to acknowledge the evolution of the CCP, “*which is no longer that of Tiananmen and 4 June 1989.*”

The three editorials conclude finally with the isolation of Tsai Ing-wen in the face of Chen Chu’s political boldness. To back up their argument, they note that little credit has been given to Tsai Ing-wen’s idea to organise a referendum on the economic agreement that the government wishes to sign with China, and that she must now reckon with Chen Chu, who has just succeeded where the chairwoman has failed. The management of Chen Shui-bian’s political heritage, the declining influence of the pro-independence factions, Tsai Ing-wen’s weakness, and the breach opened by Chen Chu are likely to represent factors that will carry weight in the articulation of the ideological mutation of the DPP – if that mutation takes place. •

• **Translated by Nick Oates**